IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

.. WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

WP(C).No. 31363 of 2006(H)

PETITIONER:

JOSE S.,
PRINCIPAL, G.H.S.S., THAZHAVA,
KOLLAM,
(UNDER ORDERS OF TRANSFER TO G.H.S.S.,
CHERUVATHUR, ERNAKULAM).

BY ADV. SRI.O.D.SIVADAS
SMT.S.HARIPRIYA

RESPONDENTS:
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1. THE DIRECTOR OF HIGHER SECONDARY
EDUCATION,
HOUSING BOARD BUILDING,
SANTHI NAGAR, THIRUVANANTHAPURAM.

2. S.DEVARAJAN,
ASWATHI, PONGODU, VELIYAM P.O.,
KOLLAM,
(UNDER ORDERS OF TRANSFER TO G.H.S.S.,
THAZHAVA, KOLLAM).

BY GOVT. PLEADER (SHRI A.J. VARGHESE)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C NO. 31363 OF 2006 H

Dated this the 6th December, 2006

JUDGMENT

Petitioner challenges Ext.P8 Order. By Ext.P8, petitioner is transferred from GHSS, Thazhava, Kollam to GHSS, Cheruvathoor, Ernakulam pending enquiry regarding the allegations. Counsel for petitioner would submit that there is actually no basis. He further points out that before passing Ext.P8 itself, petitioner had submitted Ext.P7 request for transfer. He had also made Ext.P10 request for transfer. By Ext.P9 order, the second respondent is posted in place of petitioner. Petitioner challenges the same also. It is submitted that it is only in the behest of the Parent-Teacher Association that the order of transfer has been issued. It is also stated that it is to accommodate the second respondent who was under suspension for corruption and other charges, that the petitioner is ousted. It is further submitted that petitioner was not prepared to submit to the illegal demand from the part of the PTA to make

certain appointments. It is stated that altogether there are Exts.P1 and P2 complaints against the PTA also. It is also stated that as a punishment, transfer cannot be ordered.

2. I heard the learned Government Pleader also. I note that a preliminary enquiry has apparently been made.

3. I find that there is an enquiry conducted by the Regional Deputy Director who recommended the transfer of petitioner. It cannot be said to be totally without any material, that the transfer is ordered. I am not impressed by the contention that the petitioner cannot be transferred as it will amount to a punishment. Government should enjoy free play in the matter of ordering transfers in situations where it finds that the best interest of the institution is secured by such transfer. It may not be fully correct also to characterise Ext.P8 order as an order of punishment. In such circumstances, I am not inclined to interfere with Exts.P8 and P9. It is submitted also that the second respondent has already taken charge. However, learned counsel for petitioner submits that petitioner has submitted

Ext.P10 and a decision is not taken on the same. He further submits that petitioner will submit a representation seeking him to be accommodated in any School within Kollam District. The Writ Petition is disposed of directing first respondent to take a decision on Ext.P10 in accordance with law, after hearing the petitioner also, within a period of three weeks from the date of receipt of a copy of this Judgment.

K. M. JOSEPH, JUDGE

kbk.